

Richard M. Heimann (State Bar No. 63607)
Kelly M. Dermody (State Bar No. 171716)
Eric B. Fastiff (State Bar No. 182260)
Brendan P. Glackin (State Bar No. 199643)
Dean M. Harvey (State Bar No. 250298)
Anne B. Shaver (State Bar No. 255928)
LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
Telephone: (415) 956-1000
Facsimile: (415) 956-1008

Joseph R. Saveri (State Bar No. 130064)
James G. Dallal (State Bar No. 277826)
JOSEPH SAVERI LAW FIRM, INC.
505 Montgomery, Suite 625
San Francisco, California 94111
Telephone: 415.500.6800
Facsimile: 415.395-9940

Co-Lead Class Counsel

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE: HIGH-TECH EMPLOYEE
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

ALL ACTIONS

Master Docket No. 11-CV-2509-LHK

**DECLARATION OF MICHAEL DEVINE
IN SUPPORT OF APPLICATION OF
PLAINTIFFS FOR APPROVAL OF
SERVICE AWARDS**

Date: March 5, 2014
Time: 1:30 pm
Courtroom: 8, 4th Floor
Judge: Honorable Lucy H. Koh

1 I, Michael Devine, declare as follows:

2 1. I make this statement on the basis of my personal knowledge and, if called as a
3 witness, could and would testify as to its contents. I worked for Defendant Adobe Systems, Inc.
4 (“Adobe”) as a Computer Scientist / Software Developer, on a salaried basis, from October 2006
5 through July 2008. I am a Class Representative in this lawsuit.

6 **Protecting the Interests of the Class**

7 2. Before filing this lawsuit, I became aware of agreements Adobe and other
8 Defendants entered into to eliminate competition for labor. I believe I was harmed by such
9 agreements, and that my compensation and those of other employees like me were artificially and
10 unlawfully suppressed. I also believed that, without private plaintiffs willing to step forward and
11 serve as Class Representatives, Defendants would not compensate their employees for the pay
12 that was unlawfully denied them.

13 3. I retained Lieff, Cabraser, Heimann & Bernstein, LLP (“Lieff Cabraser”) to file a
14 class action lawsuit on my behalf, and on behalf of a class of other similarly situated individuals,
15 to hold Defendants accountable for their wrongful acts, to seek compensation for those the
16 Defendants harmed, and to deter such misconduct in the future. That case was filed in California
17 Superior Court, Santa Clara County, on June 28, 2011. The case was subsequently removed by
18 Defendants to United States District Court for the Northern District of California. On September
19 12, 2011, my case was consolidated with four other similar cases, and my counsel filed a
20 Consolidated Amended Complaint on September 13, 2011. (Dkt. 65.) On October 24, 2013, the
21 Court certified the proposed Class and appointed me as a Class Representative. (Dkt. 531.)

22 4. I understand the responsibilities of a Class Representative and I have fulfilled, and
23 I continue to fulfill, my duties to the Class. I have been actively involved in the litigation of this
24 case, as described more fully below, and have been in close contact with the attorneys
25 representing the Class to monitor and contribute to this case throughout. On many occasions, I
26 have provided my attorneys with input and advice regarding various aspects of the litigation,
27 including the terms of the settlements with Pixar Ltd., Lucasfilm, and Intuit Inc. (collectively, the
28

1 “Settling Defendants”) (collectively, the “Settlements”). I have vigorously represented the
 2 Class’s interests pursuant to my fiduciary duties to the Class I represent.

3 5. I was not promised any amount of money to serve as a Class Representative. My
 4 approval of the Settlements was based on my view that they were in the best interests of the
 5 Class.

6 6. The Settlements create a fund of \$20 million, and preserve the ability to recover
 7 the full amount of damages caused by Defendants’ unlawful conspiracy from the remaining
 8 Defendants. All Class Members can participate in the money award just by filing a claim form.

9 **Benefits to the Class From My Actions as a Class Representative**

10 7. In my role as Class Representative, I have expended substantial time and effort (as
 11 more fully explained below) to perform actions that have benefited the Class at large.

12 8. Since I first retained Lieff Cabraser in April 2011, I have spent well over
 13 approximately 100 hours fulfilling my role as a Class Representative in this case, including
 14 participating in discovery and mediation. A summary of my activities is as follows:

15 a. Meeting with and speaking with my attorneys at Lieff Cabraser as part of
 16 the initial investigation of the case;

17 b. Preparing, reviewing, and finalizing my complaint;

18 c. Reviewing drafts of pleadings and other documents before authorizing my
 19 attorneys to file them and providing input on these key documents;

20 d. Gathering documents and other potential evidence about Defendants and
 21 about my claims to provide to Lieff Cabraser and produce to Defendants, including providing
 22 documents and electronically stored information to support my claims and the Class’s claims,¹ as
 23 well as helping my attorneys understand Adobe practices and potential witnesses so my attorneys
 24 could formulate proper discovery requests;

25 _____
 26 ¹ Searching and producing both paper documents and electronically stored information was a
 27 substantial effort, and included third party sources of information, such as personal email
 28 services. My search and production was not limited by time or source of information, and the
 topics were broad in response to Defendants’ discovery requests. I also assisted Lieff Cabraser in
 reviewing my documents to understand their potential responsiveness to Defendants’ discovery
 requests.


- 1 e. Preparing, reviewing, finalizing, and verifying my responses to 16
2 interrogatories, including updating several of my answers twice, at Defendants' request;
- 3 f. Reviewing documents produced by Defendants, and testimony from
4 Defendants' witnesses, that relate to me, my claims, and the claims of the Class;
- 5 g. Reviewing expert work performed by experts retained by both the Class
6 and by Defendants, and providing feedback to my attorneys;
- 7 h. Sitting for a full-day deposition taken by Defendants on October 24, 2012;
- 8 i. Preparing for my deposition with my attorneys;
- 9 j. Reviewing and correcting my deposition transcript following my
10 deposition;
- 11 k. Attending and participating in two mediation sessions in San Francisco,
12 and discussing the strategy and progress of all mediations in the case;
- 13 l. Attending Court hearings;
- 14 m. Communicating with other Class Representatives regarding developments
15 and the status of the case; and
- 16 n. Participating in regular conversations with my attorneys at Lieff Cabraser
17 throughout the duration of this case, with some calls lasting over an hour and sometimes as often
18 as several times a day, and additional communications by way of frequent and regular email
19 correspondence.

20 **Reasonable Fears of Workplace Retaliation**

21 9. I remain a part of the high-technology industry. Given this close-knit industry, and
22 the prominence and power of the seven Defendants in this case, I have taken substantial risks in
23 my own career by stepping forward as a Class Representative here. Further, during the course of
24 this action, Defendants served 6 subpoenas on other (non-party) companies that have employed
25 me, seeking essentially all information regarding nearly any aspect of my work for these
26 employers, including my personnel files. I took the risk that other high-technology companies
27 will not hire me or that clients might not want to work with me because I served as a Class
28 Representative in this action. That risk will continue throughout my career.

1 I declare under penalty of perjury under the laws of California and the United States that
2 the foregoing is true and correct.

3
4 Executed on February 27, 2014 in San Francisco, California.

5
6 
7 Michael Devine